

Planning Commission Date: September 22, 2004

Item No. 1.

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

Report prepared by: Staci Pereira

Public Hearing: Yes: X No:

Notices Mailed On: 8/27/04

Published On: 8/26/04

Posted On: 8/27/04

TITLE: **PLANNED UNIT DEVELOPMENT NO. PD2004-1, "S" ZONE APPROVAL NO. SZ2003-11 AND USE PERMIT NO. UP2003-37**

Proposal: Request for a residential Planned Unit Development with a maximum density of 216 senior and multifamily units, including two, 5-story buildings for the senior development with associated site improvements which include development standard deviations and a use permit for a parking reduction.

Location: 1696 South Main Street (APN 86-34-017, -019 and -020)

RECOMMENDATION: **Recommend approval to City Council.**

Applicant: USA Properties Fund, Attention: Milo Terzich, 2440 Professional Drive, Suite 100, Roseville, CA 95661

Property Owners: Clayton Scott, Main Street Investments, 10237 N. Boyd Avenue, Fresno, CA 93720

Fern E. Frost Trustee, All-Cal Equipment, 75 East Montague Expressway, Milpitas, CA 95035

Environmental Info: Midtown Program EIR

General Plan Designation: Multi-family Very High Density

Present Zoning: Multi-family Very High Density ("R4")

Existing Land Use: Tile manufacturing plant and truck repair & maintenance facility

Agenda Sent To: Applicant/owner

Attachments: PUD site plan, senior project site and architectural plans, project description, senior housing program sample, traffic impact analysis and addendums, traffic & parking study of other senior projects, summary of environmental conditions, noise & vibration analysis and addendums, trash & recycling details, photos of light fixtures, trellises, louvers

PJ No. 3165

Site Description

The subject site is comprised of 3 parcels totaling 4.56 acres (5.39 gross acres) and is located at the northeast quadrant of Montague Expressway and South Main Street. The Union Pacific Railroad lies to the immediate east, Highway I-880 to the west, Great Mall Parkway to the north and the City of San Jose to the immediate south. The site is bound by a storage facility, fast food restaurant, gas station and a mosque (approved but not yet constructed).

The subject site is zone "R4" Very High Density Residential, as are all of the properties to north along South Main Street up to Great Mall Parkway as a result of the adoption of the Midtown Specific Plan. Commercial, industrial and industrial park uses are adjacent to the subject site while single-family residential uses (The Pines) and a mobile home park are in the surrounding area. Both properties are currently occupied with industrial uses: a tile manufacturing plant at 1696 South Main Street and a commercial truck repair and maintenance facility at 75 West Montague Expressway.

Previous Actions

The Planning Commission approved a 1,805 sq. ft. building addition on June 24, 1965 and a 4,500 sq. ft. addition on June 27, 1972 to the rear of the existing 8,047 sq. ft. building at 1696 South Main Street. The Planning Commission approved Use Permit No. 538 on February 18, 1982 for a temporary building on 75 West Montague Expressway, however no other approvals for the two buildings that exist on the site were located.

THE APPLICATION

The applicant is requesting approval of a Planned Unit Development, pursuant to Section 54.07 (Planned Unit Development Approval) for a senior and multifamily residential development with a maximum of 216 units that includes deviations from development standards, an "S" Zone application, pursuant to Section 42.00 (Site and Architecture Review) for the construction of two, 5-story buildings and related site improvements for Phase 1 (senior housing) of the PUD and a Use Permit for a parking reduction for Phase 1, pursuant to Section 57.02-19 (Modifications to Parking Requirements) of the Zoning Ordinance.

Project Description

The applicant has assembled multiple parcels under separate ownership to build this residential project with senior and multi-family components. To help finance the affordable rents of the senior project, the applicant will be seeking tax credits, which have a very strict application cycle. The senior housing component needs to be reviewed and approved by the City in order to qualify for these tax credits. The applicant is requesting the City to approve the details of the entire project in two phases to enable the senior component to qualify in time for this tax credit application cycle. Since the site planning for Phase 2 has not been finalized, a range of units is being considered to ensure the entire development meets the minimum density (31 du/ac) and does not exceed the maximum density (40 du/ac) of the R4 District.

The applicant is requesting approval of a Planned Unit Development (PUD) with an overall maximum density of 216 residential units. The PUD would be comprised of a senior housing project with 120 units (Phase 1) and a multifamily residential project (Phase 2) with between 47 and 96 units. All of the 120 senior units would be affordable to low and very low income seniors (56% of the units possible under the maximum density).

The application includes a request for site and architectural approval of the senior project and details of the multifamily project, such as exact number of units, unit type and site design, would come before the Planning Commission in the coming months as an amendment to the PUD. The multifamily development shown on the PUD site plan is conceptual and is provided to demonstrate adequate internal circulation and site access. The PUD application includes proposed deviations from the setback and number of stories development standards for the senior project.

The senior project would be comprised of two, 5-story buildings consisting of 120 residential units on 4 levels atop 1 level of podium parking. All of the units would accommodate independent living seniors, typically between the ages of 70-75 years of age that do not require physical assistance. The units provided would be as follows:

Building A (15,060 sq. ft.)

- 56 one-bedroom (±620 sq. ft.)
- 8 two-bedroom (±950 sq. ft.)

Building B (13,990 sq. ft.)

- 48 one-bedroom (±620 sq. ft.)
- 8 two bedroom (±950 sq. ft.)

Three points of access to the entire project are proposed. Direct access to the senior project would be off the northern driveway located on South Main Street, while two driveways would access the multifamily project: the southern driveway on South Main Street and one driveway on Montague Expressway. An internal driveway would integrate the two projects and allow for cross access. All the project parking would be provided on site. For the senior development, parking would be on the first floor of both buildings and in a surface lot at the far eastern portion of the parcel. The parking for the multifamily development is conceptual and has not yet been finalized.

A recreation center and outdoor common area with a spa is located in the middle of the senior parcel along the north property line. The exterior garbage collection area is located at the southwestern portion of the senior site within a landscape area. Landscaping is primarily along the building and property line perimeters due to the narrow configuration of the parcel. A perimeter fence is proposed to secure the property, except in areas where adjacent buildings are built on the property line, such as the storage building immediately north of the senior site, and where vehicular and pedestrian connections are proposed between the two projects.

A Use Permit for a parking reduction is also being sought for the senior development. The project proposes 87 parking spaces for both residents and guests on site, which is less than the "R4" residential parking requirements.

PLANNED UNIT DEVELOPMENT

A Planned Unit Development (PUD) application is necessary because the project components would be built at different densities and would be approved in phases. Since the entire project site is 5.39 gross acres the project (senior and multifamily units combined) could yield between 167 and 216 units. The senior project area is 1.86 acres in size and would contain 120 units (65 du/ac) and the multifamily project area is 3.53 acres in size and could contain between 47 and 96 units (12 - 27 du/ac). The overall, blended density of the PUD is consistent with the 31-40 units per acre density permitted in the Multifamily Very High Density "R4" zoning district. Several conceptual site layouts for the multifamily have revealed there is adequate site access and circulation for the number of units needed to meet the "R4" density range.

In addition to density, the PUD would allow for diversification in the relationships of buildings, in terms of number of building stories and setbacks, for the senior project. The two buildings for the senior project would have 4 levels of residential atop 1 level of podium parking, which exceeds the maximum 4 stories permitted in the "R4" district. The building height ranges from 54 to 60 feet tall and is within the 60-foot maximum height limit for the district. In addition, Building A exceeds the building setback range of 8 to 15 feet from the back of sidewalk required in the "R4" district. The proposed setback ranges from 20 to 27 feet from the back of a future 10-foot sidewalk. The applicant has agreed to locate the building further west, closer to the street, however, a 14-foot wide Public Service Utility Easement (PSUE) required by the City prevents the building from doing so. Therefore, the ultimate setback of Building A would be 14 to 20 feet from the back of sidewalk.

As stated in Section 54.07-6, a PUD cannot result in a land utilization higher than permitted, must have minimum standards of open space and be in the upper limit of the density range allowed. The PUD would not exceed the overall density of 40 du/acre and therefore be consistent with the intended use as well as the maximum density permitted in the "R4" district. The senior portion of the PUD would have slightly lower open space than what is required due its oddly configured parcel with long, narrow appendages. The multifamily portion on the less constrained parcel will be required to contain more open space so the entire project will meet the minimum open space requirements. The open space within the multifamily portion will be accessible to the seniors since the projects will be integrated.

The PUD also requires that any traffic congestion that result from the proposed development be mitigated by traffic improvements proposed by the developer or by funding capital projects and by on-site provisions for traffic circulation and parking. A traffic impact fee has been imposed on the project as a condition and is discussed in further detail in the Traffic section.

The PUD would provide a public benefit in that it would allow for more affordable senior units. With a blended density (65 du/ac for the senior and 27 du/ac for the multifamily), the senior project is allowed a much higher density than could be attained in the "R4" zoning district if the projects were separate and not integrated. Also, the deviation to the number of stories allows for more units to be provided on the additional 5th floor.

“S” ZONE APPLICATION

A. Site and Architectural Compatibility with Surrounding Development

1) Site layout

The three existing properties are proposed to become two separate parcels, the northern parcel consisting of the senior development and the southern parcel with a multifamily development. For the senior development, two, 5-story buildings are proposed along the north and east sides of the property, at least 10 feet from any property line, with the exception of front setback of Building A. From the back of the required 10-foot sidewalk the building setback would range from 20-27 feet (see PUD section for further details). A surface parking lot is located at the rear of Building B at the far eastern portion of the parcel. An outdoor common open space with a spa is located between Building A and B in the center of the parcel's north side. Landscape areas ranging from 2-12 feet line the perimeter of the site.

Direct vehicular access to the senior project would be off of South Main Street. A two-way driveway would allow access to the podium parking garages on the first level of each of the two buildings and to the surface lot behind Building B. The ingress and egress of the garages would be controlled by a security gate located within the garage which would be accessible by senior residents only. The general public would access the 25 guest spaces located in the surface parking lot by driving under Building B.

As previously mentioned, the site layout of the multifamily parcel is conceptual. The three buildings for the multifamily development are shown along the north, east and west property lines of the southern parcel. Access to and from the site is proposed on Montague Expressway and on South Main Street, in addition to the internal driveway from the senior project which integrates the developments.

In reviewing the driveway off of Montague Expressway, the *Engineering Division recommends* a minimum distance of 50 feet unobstructed driveway throat which will allow vehicles entering the site from Montague enough room to queue on site and not impact vehicles traveling on the Expressway. The result would be no parking spaces located 50 feet from the face of curb on Montague Expressway for the multifamily project. Also, Santa Clara County plans to widen Montague Expressway, which will ultimately require 79 feet of roadway from centerline to face of curb. Behind the 79-feet, the City requires a 10-foot wide public utility service easement, which results in a greater building setback along Montague Expressway. Therefore, the multifamily buildings would be required to be located further north than their location shown on the conceptual site plan.

2) Building Architecture

The architectural design of both senior buildings is rather consistent with slightly variations on each elevation. Four stories of residential sit atop the podium garage with an overall height of 54 feet with two tower elements on each building containing the building entrances, elevators and stairwell, which reach 60 feet tall. The 1st level containing the garage is comprised of solid stucco walls with metal louvered panels that will assist in venting the garage along. Along the base, 4-foot tall raised landscape planters occur along the north elevation of Building A and the

east elevation of Building B, as well as portions of the side elevations. In the upper stories building elements project out as well as up, which contain balconies. In between, flush surfaces of the building covered with siding project up above the roofline to 56 feet with a peaked roof with asphalt composition roofing material. The projecting rooflines and tower elements provide for a balanced variation of the roofline.

Multi-paned windows are proposed throughout, with the larger windows occurring at the building entrances, individual balconies and at the recreation center. Metal railings are proposed for each balcony which is also used for the garaged security gates and the ventilation louvers. Wood trellises would occur at the 4th floor balconies, the garage entrances, and at a person door. facing South Main Street. Braced metal canopies are proposed on some of the towers.

The color scheme proposed consists of alternating stucco in Spanish Brown and siding in Sandal with all window trims and sills, siding trims and trellises in Tuscon White. The balcony railings, garage security gates and louver vents would all be in White. Asphalt composition material is proposed for the peaked roofs in Charcoal Gray.

Staff concludes the overall architecture of the building meets the guidelines of Midtown, however, *recommends* minor architectural modifications including:

- a. Address the bare side elevations on both buildings, especially the east elevation of Building A fronting South Main Street (perhaps by adding more windows, special corner treatment, using trellises, adding balconies, or other articulation);
- b. Reduce the amount of siding used, especially on the side elevations (perhaps use color to add depth or other material);
- c. Replace or remove the braced metal canopies proposed on several of the towers, which do not complement the other architectural features of the building;
- d. Asphalt composition roof material is not permitted in the Midtown District and must be replaced with a higher quality material (perhaps tile);
- e. Consistent with Midtown guidelines, recess all windows a minimum of 4 inches;
- f. Submit revised color elevations and material samples that reflect correct colors proposed;
- g. Address architectural changes that result from relocating the stairwell on Building B from the south end to the front elevation due to fire life and safety concerns;
- h. Provide detail and elevations of perimeter fence; and
- i. Incorporate downspouts, all light fixtures in elevations.

3) Landscaping

The majority of the senior project's landscaping is proposed in the setback areas of the parcel perimeter, which range in size from 2 to 12 feet wide. The front setback on South Main Street west of Building A, would contain a 33 feet wide landscape area that will provide a buffer between the street and the residential building. However, this area would be slightly reduced due to conditions imposed on building setback and increased sidewalk width discussed elsewhere in the report. Additional landscaping, as well as some containerized planters are proposed to

enhance the outdoor portion of the recreation area around the spa. Raised landscape planters (4' x 6') line the base of approximately 50% of each building, along the rear and side elevations.

The plant materials proposed include a wide range of tree species, shrubs and ground covers. However, several sheets in the plans differ in the specie type and location. **Staff recommends** the following conditions:

- a. The applicant submit an accurate landscape plan;
- b. All trees shall be a minimum of 24-inch box;
- c. Submit an irrigation plan for all landscape areas;
- d. To address fire access concerns along the rear of the senior buildings reduce the raised landscape planters from 6 to 4 feet in width;
- e. To address fire access concerns to the upper residential story windows provide paved areas at intermittent locations in the perimeter landscaping abutting the property line at the rear of both senior buildings to allow for ground ladder setup; and
- f. For the 2-foot wide landscape area that occurs along the rear of the senior buildings propose tree and shrub species that will be successful in such a narrow space with limited light.

4) Streetscape

Consistent with the Midtown Plan, streetscape improvements are required for all project proposed within the plan area. However, the project plans do not propose any streetscape improvements. In addition, the sidewalk proposed along the South Main Street frontages (6-foot wide) could not accommodate any street trees due to their narrow width. Therefore, **staff recommends** the applicant submit streetscape plans reflecting the following:

- a. Montague street frontage, including sidewalk, street trees, shall be constructed as per Santa Clara County standard. In addition, due to future widening of Montague, a temporary sidewalk will be required in current location and street trees shall be planted in future sidewalk location so as not to require their removal upon the widening of the expressway;
- b. All sidewalks along South Main Street shall be 10-foot wide;
- c. The streetscape amenities on the South Main Street frontages shall include 24" box street trees in tree wells with grates placed 30-feet on center. Tree species and tree well and grate details to be per City Standards;
- d. Continue streetscape improvements (10-foot sidewalk and trees) along the entire frontage of Jack-in-the-Box property located in between the two entrances on South Main Street.
- e. Construct transitions for sidewalks to both properties located north and south of the proposed project (Storage facility and Shell station) to allow for adequate pedestrian connections.

5) Lighting

Lighting for the senior project includes both building and site lighting. The building light fixtures proposed are the Visa Colonade (see brochure and building elevation). Site lighting would be provided by parking lot and security type fixtures located throughout the senior development. The photometric plan indicates adequate illumination of the site. *Staff recommends* that the details and architectural elevations of the site lighting fixtures be submitted to the Planning Division for review.

6) Parking

Without acknowledging the difference in parking demand between standard residential units and senior housing the parking requirement for the senior development is 216 parking spaces (pursuant to Section 8.06 ("R4" Off-Street Parking) of the Zoning Ordinance and summarized in the table below). The senior project proposes a total of 87 spaces. The parking would be provided in the podium garages on the first floors of Building A (41 spaces) and Building B (21 spaces). The 25 guest spaces would be provided in the surface lot behind and east of Building B. The surface parking lot shown west of Building B is for the multifamily development located on the southern parcel and is not part of the senior project.

Parking Standard	Required Parking	Proposed Parking	Complies ?
Residential: <input type="checkbox"/> 1 bd = 1.5 covered stalls <input type="checkbox"/> 2 bd = 2.0 covered stalls	<input type="checkbox"/> (104) 1 bd = 156 <input type="checkbox"/> (16) 2 bd = <u>32</u> 188	62	No
Guest Parking — 15% of total residential	28	25	No
Bicycle - 5% of total residential, plus guest	11	10	No
TOTAL = 216	216	87	No

As depicted in the above table the senior project does not meet the parking requirements for the "R4" residential district. Based on the age of the occupants that will occupy the residential units the applicant is providing less parking because parking standards for general multifamily housing have proven to exceed the demand of other senior facilities. The parking reduction is discussed in further detail in the Use Permit section of this report.

7) Open Space

All residential developments in the Midtown area are required to provide park and open space at a ratio of 3 ½ acres per 1,000 population. As per Section 8.07-1, up to 43% of the public park and open space requirement may be provided in the form of private recreational space, which would include on-site usable common areas or private open space. Based on the ratio of 1.8

persons per household, which is characteristic of 1 & 2 bedroom senior apartments, the park requirements for the senior project would be the following:

.43 public acres
.33 private acres (optional)
.76 acres total park acres

The senior project proposes to provide the 43% of private recreational space onsite with amenities including the recreation building (2,620 sq. ft.), spa and outdoor common area (4,700 sq. ft.), the 5'x12' private balconies provided for each room (7,200 sq. ft.), and the perimeter landscaping (5,000 sq. ft.) totaling 19,520 sq. ft. However, the perimeter landscape areas do not qualify because these areas are not considered "usable" by the residents due to the narrowness and in some cases inaccessibility. Similarly, the private balconies do not qualify because they will be exposed to noise levels that exceed the acceptable noise levels for recreation areas contained in the Milpitas General Plan Noise Element. A detailed noise analysis addressing the private balconies would need to be submitted along with mitigation measures if the balconies are to be included. The resulting areas considered private recreational open space totals 7,320 sq. ft. Regarding the outdoor common area near the recreation facility, *staff recommends* further enhancements perhaps including a pool, fountain, seating area or other amenities.

Based on this, the remaining open space requirement of 0.60 acres (26,136 sq. ft.) would be satisfied with the payment of a park-in-lieu fee. Midtown Specific Plan Policy No. 3.25 allows an applicant to provide for the improvement of trails designated in the City's Trail Master Plan. The project is in close proximity to Penitencia Creek, which is proposed for trail development. The cost to improve one acre of trail is approximately \$417,450 and this amount has been used to establish the project's park in-lieu fee to be \$250,470.

In addition to the public open space requirement, the "R4" zoning district requires an additional 200 sq. ft. of usable open space per unit and 25% of the total site dedicated as usable open space. Due to the narrowness of the senior parcel with its challenging configuration, the senior project is unable to meet these two requirements. However, the PUD is required to meet all of its open space requirements and the additional usable open space from the senior project shall be incorporated in the multifamily project, which will be accessible since the projects will be integrated.

8) Solid Waste

The senior project proposes a 17' x 14' (exterior dimensions) trash enclosure in the landscape area along the interior driveway at the southern portion of the site, just west of Building B. The enclosure would be 8 feet in height and comprised of stucco over a masonry wall with a solid metal gate and connected to the sanitary sewer for spills and cleaning. The residential trash and recycling from the senior development would be transferred to this exterior enclosure for pick-up by BFI.

Each of the senior buildings would be equipped with one trash chute that can be accessed from all floors and terminates in a trash room in each of the garages. A chute room would be located on each floor and would accommodate a recycling cart, which would be transferred by

maintenance personnel to the exterior enclosure daily along with the trash collected in the trash rooms.

9) Stormwater runoff

The new C3 Stormwater requirements apply to new developments that exceed 1 acre in size and require the surface run-off to be controlled in terms of quantity (reduced) and quality (less polluted). Consistent with these requirements, the applicant has submitted a stormwater plan that includes the implementation of landscape swales and bio-retention areas (BMP'S) to capture, drain, and clean run-off from the impervious surfaces within the project. The run-off from the building's roofs will be drained to the landscape planters at the base of each building through the down spouts and then stored in the bio-retention areas. The run-off from the paved areas will be filtered into the landscape swales topsoil and collected by the perforated underground drainage system where it is treated and then discharged into the existing drainage system located on South Main Street. The **Engineering Division recommends** the following modifications to the plan and report:

- a. Identify the soil type and confirm the soil characteristics;
- b. Indicate all possible pollutants source areas on the plan and identify all sources of runoff pollutants and source control BMP's, (current report is incomplete); and
- c. A license professional engineer's certification that the measures specified in the report meet the requirements of the RWQCB order. (E)

10) Utilities

Ultimate locations of the site's utilities (gas, electrical meters, PG& transformer, backflow, fire hydrants) have not yet been determined. To be in consistent with the Midtown Plan **staff recommends** a condition of approval that requires all utilities to be located together and screened so they are not visible from public view.

11) Rooftop Equipment

As noted on the roof plan (Sheet BA-A2.04) and on the building cross sections (Sheet BA-A3.01), the air conditioning units would reside on the flat portion on the roof and behind the 3'5" parapet, which is the lowest point of the roofline. The air conditioning units shown are the same height as the parapet. **Staff recommends** a condition that will ensure these units reside at or below the building parapet on all elevations, as their dimensions may change once the equipment is chosen and the building elevation may be modified as a result of staff recommended conditions.

12) Signage

No signage is proposed for the project at this time. Prior to the approval of any signage for the senior or multifamily development, proper applications depending on signage type will need to be submitted to the Planning Division.

USE PERMIT

Pursuant to Section 57.02-18 (Modifications to Parking Requirements), modifications to the parking requirements may be approved by the Planning Commission through the approval of a Use Permit. The applicant is seeking a Use Permit to provide 87 of the 216 spaces required by the "R4" district for the senior project. The parking requirements for the "R4" district (1.5 spaces for 1 bedrooms and 2 spaces for 2-3 bedrooms) are designed for multifamily residential units with occupants that own 1-2 vehicles per household. The applicant has submitted a parking study (Fehr & Peers, February 14, 2002) of other senior housing projects that documents a lower parking demand for this type of project.

City staff expanded the scope of the survey to include Terrace Gardens and provided a summary table below. As apparent in the in 4th column of the table below, the majority of the facilities were parked at a ratio less than 1 space per unit. In addition, the total parking for each facility includes guest parking, therefore the space per unit ratio is actually slightly lower. Fehr & Peers performed a 4-day parking analysis at 3 of these facilities and concluded the average parking demand (i.e. *occupied* spaces per unit) was 0.61 spaces per unit.

SENIOR FACILITY	TOTAL UNITS	PROVIDED PARKING	SPACES/UNIT PROVIDED (includes guest)	AVG PARKING DEMAND p/ unit
Vintage Canyon Brea, CA	105	79	.75	.55
Vintage Chateau Petaluma, CA	240	228	.95	.68
Vintage Oaks Citrus Heights, CA	241	254	1.05	.62
Terrace Gardens Milpitas, CA	148	88 / 115*	.59 / .77*	N/A
Proposed USA Project Milpitas, CA	120	87	.72	N/A
<i>Average</i>				.61

*Land bank of 27 additional spaces were included in approval if needed (never constructed); 88 (.59 per unit) exist

Staff conducted research on the only Milpitas senior facility, Terrace Gardens, and found comparable results. This facility was approved with excess spaces which could be accommodated on-site in landscape areas should they be needed. Terrace Gardens' management confirmed that they have adequate parking for residents, however the 12 spaces dedicated for guest is not enough. Staff contacted the management of the other facilities surveyed and learned that no parking problems with resident *or* guest parking exist. Staff also contacted the cities where these facilities are located and found that no parking issues were known of at any of the

sites. Based on our research and the conclusions of the study, staff supports a parking ratio of 0.72 spaces per unit for the proposed senior facility, which is above the parking ratio provided for Terrace Gardens *and* above the average parking demand experienced at the facilities surveyed. However, to ensure that no future parking issues arise due to a change in use, **staff recommends** condition that requires the senior development site to remain a senior development in perpetuity. Additionally, so as not lease to more seniors that own vehicles than can be accommodated within the parking garages, the applicant must include a statement in the lease agreement for each unit that limits the number of parking spaces provided per unit and shall submit a copy to the City. Additionally, since some of the senior occupants will not vehicles and there are not many commercial services in the immediate vicinity, **staff recommends** a condition that a shuttle service be provided for the senior residents, details of which shall be reviewed by City staff prior to building permit issuance.

CONFORMANCE WITH LOCAL PLANS AND ORDINANCES

General Plan

The proposed PUD, “S” Zone and Use Permit applications are consistent with the following Guiding Policies and Implementing Principles of the General Plan:

- ❑ 2.a-G-2 which encourages a relatively compact form, through the use of compact development and higher densities;
- ❑ 2.a-G-3 which provides for a variety of housing types and densities to meet the demands of families;
- ❑ 2.b-I-3 which provides housing opportunities in Milpitas by meeting the City’s regional fair-share housing obligations;
- ❑ 2.a-G-6 which implements the Midtown Specific plan goals, policies, and development standards and creates high density housing; and
- ❑ 2.a-I-2 which promotes in-fill development in the incorporated city limits.

The proposed density of the PUD is consistent with the Multifamily Very High Density General Plan designation of 31-40 DU/acre. The will provide two housing types, senior and multifamily with one, two and three bedroom units, which will provide for varying family sizes and assist in meeting the City’s regional housing obligations. In addition, the overall development will be an in-fill project replacing existing heavy industrial type uses. The parking reduction for the senior project allows for a higher density and more affordable senior units than could be provided if the typical parking standards in “R4” zoning were applied.

Midtown Specific Plan

The proposed project needs to demonstrate compliance with the Midtown Specific Plan. This requires an additional finding that the project conforms to the intent and the specific requirements of the Midtown Specific Plan, including the Development Standards and Design Guidelines.

As demonstrated in the “S” Zone section of this report, the proposed project complies with the development standards of the “R4” zoning district, with the exception of number of building stories and building setbacks discussed in the PUD section and the parking reduction discussed in the Use Permit section that follow. The project conforms with the Midtown Specific Plan’s Land Use Goals 2 and 3, and Residential Policies 3.4 through 3.7 in that it provides a significant amount of new high density housing that addresses the local senior and multifamily housing and affordability needs. In addition, the proposed project is consistent with Park and Open Space Policy 3.25, Circulation Goal 1, and Community Design Goal 4 in that the in-lieu park fee will be used to improve the future linear park along Penitencia Creek trail for pedestrians and bicycles and the new streetscape improves the character of the streets. Staff has also reviewed the project against the design guidelines of the Plan and has determined that, as conditioned, the project is in conformance with all applicable design guidelines. Thus, staff concludes the project is consistent with the intent and specific requirements of the Midtown Plan.

Conformance with the Zoning Ordinance

Pursuant to Section XI-10-8.05 of the Zoning Ordinance, the PUD density and senior project conforms with the land use and development standards of the Multi-Family Very High Density “R4” District in the following ways:

Zoning Code Development Standards	Proposed Project	Complies?
Residential Density = 31-40 DU/acre	40 DU/acre (PUD Density)	Yes
Building Height: <input type="checkbox"/> 4 stories <input type="checkbox"/> 60 ft. (including towers)	<input type="checkbox"/> 5 stories <input type="checkbox"/> 56-60 ft.	No, see page 4
Parking Requirement = 216	87	No, see Page 8 & 11
Front & Street Side Setbacks = 8 to 15 ft. from back of 10 ft sidewalk	24 to 31 ft. from back of 6 ft. sidewalk	No, see page 4
Interior & Rear Setbacks = 10 ft.	10 ft.	Yes
Park & Open Space = .76 acres <input type="checkbox"/> .43 acres - Public <input type="checkbox"/> .33 acres - Private (43%) Other open space requirements: <input type="checkbox"/> 200 SF per unit	<input type="checkbox"/> Public (park-in-lieu fee) <input type="checkbox"/> Private (.44 acres/19,520 SF) <input type="checkbox"/> 60 SF per unit (5'x 10' balcony)	Yes No, see page 9

<input type="checkbox"/> 25% of net acres = 18,055 SF	<input type="checkbox"/> 27% (19,520 sq. ft. of 1.66 net acres)	
Utilities: Setback from street, screened with landscape or other material, located in a single area, in wells, underground, etc...	Not shown on current submittal. Staff will ensure conformance upon review of revised plan for building permits.	TBD
Affordable Housing = 20% minimum City Specific Plan Goal	Senior – 100%	Yes, see below

In addition, consistent with Section XI-10-42.03 (“S” Zone Review Requirements), staff has reviewed the project within the context of the surrounding area. Properties to the north and south were rezoned for high density housing in 2002 with the adoption of the Midtown Specific Plan. The current uses of these properties remain commercial and industrial with the exception of a hotel and mobile home park to the north, and several undeveloped parcels throughout. The majority of the older developed sites appear weathered in terms of structures and landscaping and do not meet the current development standards of the “R4” district. In fact, the majority of the subject site is dirt with a chain link fence, no landscaping and the storage of semi trucks. Therefore, the proposed project will not necessarily complement the existing buildings and sites in the surrounding area. However, as conditioned, the layout of the site, design of the proposed building, and landscaping would be compatible and aesthetically harmonious with the future development of the surrounding area as envisioned by the Midtown Specific Plan and would greatly improve the current aesthetics of the site. In addition, since the residential project would be adjacent to and surrounded by existing and future commercial development (gas station, mosque, fast-food restaurant and storage facility) no adverse impact such as shadows, view obstruction, or loss of privacy are anticipated.

Conformance with Affordable Housing Policy

The Midtown Plan requires a 20% minimum affordability of units for all new residential projects, which would be 43 units of the 216 proposed in the PUD. By providing all 120 of the senior units as affordable (a minimum of 56% of the maximum unit yield of the entire project), the project exceeds the affordability requirements of Section 8.10 (Affordable Housing) of the “R4” development standards and the Midtown Affordable Housing Policies 3.5 and 3.6. By providing a total of 35 senior housing units at 50% of area median income and 85 units at 60% of area median income.

Conformance with CEQA

The proposed project is exempt from further environmental review pursuant to Article 8, Section 65457 (CEQA Exemption) of the State Planning and Zoning Law and Article 11, Section 15168(c)(2) (Program EIR) of the California Environmental Quality Act (CEQA) Guideline. The proposed project is consistent with the Midtown Specific Plan Program EIR and no new effects or new mitigation measures are required. Mitigation measures for

traffic and hazardous material impacts from the Midtown Program EIR apply to the project and have been carried over in the form of conditions of approval, which are discussed below.

The parcels within the project site have been subject to soil and water contamination due to previous land uses. Phase I and II Environmental Assessments have been performed and the results are summarized in the attached documents (Current Status of Environmental Conditions Report by Krazan & Associates, July 21, 2004). The Frost Property (APNs 86-34-019 and -020) was subject to MTBE soil and groundwater contamination from underground storage tanks both onsite and from the adjacent gas station site (Shell). Remediation has been occurred and "Case Closure" letters have been issued by the Santa Clara Valley Water District (SCVWD) concluding no further action is necessary. In addition, a former engine steam-cleaning sump contaminated the soil with petroleum hydrocarbons (PHCs) in the southeastern portion of the site. The majority of the oil was removed, however oily soils were observed in the top 2-feet in September of 2003. Even though there is no evidence to suggest the oily soil has hazardous constituents, *staff recommends* a condition that prior to building permit issuance the oily soil be tested and if determined hazardous, remediation be recommended and completed.

The Scott Property (APN 86-34-017) was subject to soil contamination of lead from the improper disposal of tile glaze from tile manufacturing plant. The applicant is working with the Department of Toxic Substance Control (DTSC) in developing a Remediation Action Workplan to remove the contamination. *Staff recommends* a condition of approval that documentation of the lead contamination removal and a "Case Closure" letter from the DTSC be submitted prior to building permit issuance. In addition, an asbestos survey of the structures on site was conducted due to the age of the building. However, the results were not been included in the Summary of Environmental Conditions, therefore *staff recommends* a condition of approval that prior to any demolition or removal of any structures onsite, the applicant submit the asbestos survey and if asbestos-containing materials are present, the materials shall be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the Bay Area Air Quality Management District.

Traffic

The proposed project will generate new trips throughout the area. As identified in the Midtown Specific Plan EIR, most traffic impacts cannot be mitigated over the long term. The City adopted overriding considerations for these impacts. However, the Midtown EIR did identify that fair share contributions would be required for projects that impact intersections and roadways. A Traffic Impact Analysis was conducted for the project based on 204 residential units. The proposed project is estimated to generate 64 AM Peak hour trips and 79 PM peak hour trips. In addition, 9 intersections were evaluated in accordance with the Congestion Management Program during the AM and PM peak hours and 22 intersections in accordance with the North San Jose Deficiency Plan during the PM peak hours. The result of the study identified that the project will further impact the following 4 deficient intersections:

- South Abel Street and Great Mall Parkway

- Great Mall Parkway/East Capitol Avenue and Montague Expressway
- McCandless Drive/Trade Zone Boulevard and Montague Expressway
- McCarthy Boulevard/O'Toole Avenue and Montague Expressway

Mitigation for traffic impacts to the Midtown Plan area and Montague Expressway is the payment of a Traffic Impact Fee. The Traffic Impact Fee for the project has been included as a condition of approval and is in the amount of \$ 28,110. However, since the entire project could build up to 216 residential units, *staff recommends* a condition of approval that a revised TIA will be required upon submittal of the multifamily portion if the total units exceed 204, which would also require recalculation of the Traffic Impact Fee.

City staff, County of Santa Clara as well as the applicant's traffic consultant have concerns about the impacts of the two multifamily driveways proposed on South Main Street and Montague Expressway on the existing traffic flows. The driveway located on Montague Expressway is proposed to be a right-in and right-out only, due to the roadway median. As noted in the memorandum from Hexagon, dated September 15, 2004, there are concerns that the right-out on Montague Expressway would be a point of conflict due to drivers attempting to cross 3 westbound lanes to make a left onto South Main Street or a u-turn. This high-speed expressway has very high traffic volumes and the driveway's close proximity to the intersection of South Main and Montague could potentially cause vehicular conflicts. Therefore, *staff recommends*, the driveway on Montague Expressway be limited to right-in only and be constructed with a mountable curb that would allow emergency vehicle to exit to Montague Expressway, if necessary.

The southern South Main Street driveway for direct access to the multifamily project is proposed at the northern portion of the site and would be fully accessible from both northbound and southbound directions of South Main Street. There are two concerns regarding this driveway location. The proposed location would be adjacent to the Jack-in-Box driveway, which experiences high volumes of traffic, similar to other fast-food restaurants with drive-thrus. City staff has concerns with vehicular conflicts that would occur with vehicles entering the sites simultaneously within such close proximity. Therefore, *staff recommends* a condition of approval that the multifamily driveway located on South Main Street be moved further south than its proposed location. Additionally there are concerns regarding vehicles exiting the multifamily site to go southbound on South Main Street. Due to the close proximity of the signalized intersection at Montague Expressway and the 200-foot long turn pocket to go eastbound on Montague Expressway, vehicles would have to cut across the turn pocket or be forced into it. South Main Street is also a high volume roadway, especially during the peak traffic hours. *Staff recommends* that the intersection of South Main Street and Montague Expressway be striped to accommodate 2 shorter, 100-foot turn pockets. This would eliminate staff's concern associated with the driveway as well as improve the same situation that exists with the Shell station driveway that occurs immediately south the proposed project.

Vibration and Noise

The eastern portion of the senior project's parcel is adjacent to Union Pacific railroad tracks. A surface parking lot has been appropriately located within this area and the nearest residential unit in the PUD is approximately 150 feet from the railroad track. A noise and vibration analysis

conducted by Bollard & Brennan (October 20, 2003, January 24, 2004 and addendums dated April 23, 2004 and September 13, 2004) concluded that vibration levels that occur at a distance 150 feet are well below thresholds which would cause any structural damage, but could be in the range of perception.

In addition, it is expected that there will be an increase in the number of automobile trips on the streets adjacent to the project. Because of the expected impacts and the proximity of the residential project to both Montague Expressway and South Main Street, for the following acoustical analysis is provided:

Exterior Noise

The report identified that exterior outdoor common and private areas (spa & outdoor common area, private balconies) would be exposed to noise impacts due to the combined roadway and train noise. The report identified future traffic noise levels on both Montague Expressway and South Main Street were predicted to be approximately 50dB Ldn and 47 dB Ldn, respectively, and would comply with the City of Milpitas' 65 dB Ldn exterior standard. The railroad tracks are approximately 190 feet from the outdoor common area and predicted noise levels of approximately 51.3 dB Ldn at these locations would also comply with Milpitas' standards. The report applied the noise level standards to the private balconies, but due to their elevated locations above any sound wall, exterior noise standards would be exceeded, therefore the balconies cannot be counted towards the private open space requirement. If the applicant chooses to include the patios as part of their private open space **staff recommends** a revised noise analysis to determine if any mitigation measures can be implemented to reduce the noise levels of the private patios.

Interior Noise

For residential uses, the *interior* noise level cannot exceed a 45 LDN (a 24 hour average, day-night noise level) standard. It is expected that common building construction in California will reduce noise levels by 25 Ldn bringing the level below the 45 Ldn limit with windows closed. Because this cannot be measured until detailed architectural plans become available, a detailed noise analysis will be required to ensure the type of construction will reduce noise levels to the acceptable level prior to any building permits being issued.

Neighborhood/Community Impact

Based on the analysis and conclusions of this report, the proposed project is not anticipated to have any adverse impacts on parking, traffic, noise, odors, or be detrimental to the health and safety of the public. In addition, the project will not have adverse effects upon the adjacent or surrounding development, such as shadows, view obstruction, or loss of privacy that are not mitigated to acceptable levels.

RECOMMENDATION

Close the public hearing. Recommend approval of Planning Unit Development No. PD2004-1, "S" Zone Approval No. SZ2003-11 and Use Permit No. UP2003-37 to City Council based on the Findings and Recommended Special Conditions below.

FINDINGS

- 1) The proposed project is exempt from further environmental review pursuant to Article 8, Section 65457 of the State Planning and Zoning Law and Article 11, Section 15168(c)(2) (Program EIR) of the California Environmental Quality Act (CEQA) Guidelines.
- 2) The proposed project is consistent with Guiding Policies and Implementing Principles 2.a-G-2, 2.a-G-3, 2.a-G-6 and 2.a-G-6 of the General Plan in that the proposed overall density is consistent with the “R4” General Plan designation and meets the intent of the Midtown Specific Plan of densities over 30 DU/acre. It will provide two housing types, senior and multifamily, with one, two and three bedroom units which will provide for varying family sizes and assist in meeting the City’s regional housing obligations. In addition, the overall development will be an in-fill project replacing an existing heavy industrial type uses.
- 3) As conditioned, the proposed project is consistent with the City of Milpitas Zoning Ordinance in terms of land use and development standards, with the exception of number of stories and setbacks, for Multi-Family Very High Density zoning because the proposed development is a high-density (40 DU/acre) residential development.
- 4) As conditioned, the proposed project is consistent with the intent and specific requirements of the Midtown Plan in that it complies with the development standards of the “R4” Midtown zoning district, with the exception of number of stories and setbacks and the parking reduction discussed in the Use Permit section, it conforms with the Midtown Specific Plan’s Land Use Goals 2 and 3, Circulation Goal 1, Community Design Goal 4, Residential Policies 3.4 through 3.7, and Park and Open Space Policy 3.25 and is conformance with all applicable design guidelines.
- 5) As conditioned, the layout of the site, design of the proposed building, and landscaping would be compatible and aesthetically harmonious with the future development of the surrounding area as envisioned by the Midtown Specific Plan and would greatly improve the current aesthetics of the site. In addition, since the residential project would be adjacent to and surrounded by existing and future commercial development (gas station, mosque, fast-food restaurant and storage facility) no adverse impact such as shadows, view obstruction, or loss of privacy are anticipated.
- 6) The PUD would provide a public benefit in that it would allow for more affordable senior units. With a blended density (65 du/ac for the senior and 27du/ac for the multifamily), the senior project is allowed a much higher density than could be attained in the “R4” zoning district if the projects were separate and not integrated. Also, the deviation to the number of stories allows for more units to be provided on the additional 5th floor.
- 7) The proposed projects exceeds the 20% minimum affordability requirements of Section 8.10 (Affordable Housing) of the “R4” development standards and the Midtown Affordable Housing Policies 3.5 and 3.6.

SPECIAL CONDITIONS

- 1) **PUD APPROVAL.** This Planned Unit Development No. PD2004-1 is for a residential development with a maximum density of 216 units (120 senior and between 47-96 multifamily units). It also allows for modifications to “R4” development standards that include 5-story buildings and 14 to 20-foot setbacks for the senior development. The “S” Zone application required for the multifamily development must include a PUD amendment and must meet the overall open space requirements for the entire PUD development. (P)
- 2) **“S” ZONE APPROVAL.** This “S” Zone Approval No. SZ2003-11 is for the senior development which includes two, 5-story buildings with 120 residential units and associated site improvements in accordance with the plans approved on September 22, 2004, and as amended by the conditions below. Any modification to the project as proposed will require an “S” Zone Approval Amendment by the Planning Commission. Minor modifications can be submitted to the Planning Division for processing as per Section 42.10 of the zoning code. (P)
- 3) **“S” ZONE APPROVAL.** No building permit shall be issued for the senior development, until the Planning Commission has reviewed the PUD amendment and “S” Zone applications for the multifamily development. Any modification to this condition may be approved by the Planning Commission. (P)
- 4) **USE PERMIT APPROVAL.** This Use Permit No. UA2003-37 is for a parking reduction of 129 spaces, which requires the use of the senior development to remain in perpetuity and could not be changed unless site modifications were approved to accommodate the required parking of such use. Any modification to the parking reduction will require a Use Permit Amendment by the Planning Commission. (P)
- 5) **PARKING.** Prior to certificate of occupancy issuance, the applicant shall submit a copy of a lease agreement that requires a statement for each unit rented that limits the number of parking spaces provided per unit and shall submit a copy to the City. (P)
- 6) **GENERAL.** This use shall be conducted in compliance with all appropriate local, state, and federal laws and regulations, and in conformance with the approved plans. (P)
- 7) **SHUTTLE SERVICE.** Prior to building permit issuance, a program indicating details of the shuttle services (providers, times, locations, etc.) must be submitted to the Planning Division for review and approval. The management shall provide continued shuttle services to the senior residents on site in perpetuity. (P)
- 8) **ENVIRONMENTAL.** Prior to any demolition or removal of any structures onsite, the applicant submit the asbestos survey and if asbestos-containing materials are present, the materials shall be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the Bay Area Air Quality Management District. (P)

- 9) ENVIRONMENTAL. Prior to building permit issuance, the applicant shall submit documentation of the removal of all lead contamination and a "Notice of Completion" letter from the Department of Toxic Substance Control (DTSC). (P)
- 10) ENVIRONMENTAL. Prior to building permit issuance, the oily soil observed in the southeastern corner of the site be tested and if determined hazardous, remediation be recommended and implemented, such as removal and proper disposal or placed beneath asphaltic concrete pavement. (P)
- 11) PARK FEES. Prior to certificate of occupancy issuance, the applicant shall pay a park-in-lieu fee in the amount of \$250,470 for the senior development only. This fee may require adjustment upon submittal of multifamily project which must meet the total open space requirements for the PUD. (P)
- 12) TRAFFIC IMPACT FEE. Prior to building permit issuance, the applicant shall contribute a "fair share" traffic impact fee in the amount of \$28,110 (based on a Midtown impact fee of \$113 per peak hour trip and a Montague Expressway impact fee of \$903 per peak hour trip). This fee may require adjustment if upon submittal of multifamily project, the total unit count exceeds 204 residential units. (P, T)
- 13) TRAFFIC IMPACT ANALYSIS. Should the overall unit count for the PUD exceed 204, a revised TIA will be required upon submittal of the multifamily portion (Phase 2). (P)
- 14) MULTIFAMILY DRIVEWAYS. Relocate the multifamily driveway on South Main Street further south from its proposed location and re-stripe the intersection of South Main Street and Montague Expressway to accommodate two, 100-foot long turn pockets. (P)
- 15) MULTIFAMILY DRIVEWAYS. The driveway on Montague Expressway be limited to a right-in only and be constructed with a mountable curb that would allow emergency vehicle to exit to Montague Expressway if necessary. (P)
- 16) PJ ACCOUNT. If at the time of application for building permit, there is a past due project job account balance owed to the City for recovery of review fees, review of permits will not be initiated until the balance is paid in full. (P)
- 17) PJ ACCOUNT. If at the time of application for certificate of occupancy there is a project job account balance due to the City for recovery of review fees, review of permits will not be initiated until the balance is paid in full. (P)
- 18) BUILDING ELEVATIONS. Prior to building permit issuance, the applicant shall revise the elevations in order to address the following concerns and suggestions to the approval of the Planning Division:
 - a. Address the bare side elevations on both buildings, especially the east elevation of Building A fronting South Main Street (perhaps by adding more windows, special corner treatment, using trellises, adding balconies, or other articulation);

- b. Reduce the amount of siding used, especially on the side elevations (perhaps use color to add depth or other material);
 - c. Replace or remove the braced metal canopies proposed on several of the towers, which do not complement the other architectural features of the building;
 - d. Asphalt composition roof material is not permitted in the Midtown District and must be replaced with a higher quality material (perhaps tile);
 - e. Consistent with Midtown guidelines, recess all windows a minimum of 4 inches;
 - f. Submit revised color elevations and material samples that reflect correct colors proposed;
 - g. Address architectural changes that result from relocating the stairwell on Building B from the south end to the front elevation due to fire life and safety concerns;
 - h. Provide detail and elevations of perimeter fence; and
 - i. Incorporate downspouts, all light fixtures in elevations.
- 19) OUTDOOR RECREATION AREA. Prior to building permit issuance, the applicant shall submit a revised plan of outdoor common area near the recreation facility showing further enhancements that could include 1 or more of the following: addition of pool, seating area, fountain, etc. (P)
- 20) NOISE. Prior to building permit issuance, a detailed noise analysis will be required to determine the building upgrades necessary to keep the interior noise levels below 45 dB Ldn. (P)
- 21) LIGHTING. Prior to building permit issuance, the applicant shall submit details and elevations for all site lighting fixtures to the Planning Division for review and approval. (P)
- 22) ROOFTOP EQUIPMENT. Prior to building permit issuance, details of all rooftop equipment must be submitted along with cross sections of the roof to ensure that all rooftop-mounted equipment (HVAC, etc.) shall be screened from all views (i.e. reside at or below the building parapet on all elevation). An increased parapet should be required if equipment exceeds the height rather than rooftop screens to retain the architectural integrity of the building. (P)
- 23) SIGNAGE. Prior to the approval of any signage for the senior or multifamily development, proper applications depending on signage type will need to be submitted to the Planning Division. (P)
- 24) IRRIGATION. Prior to building permit issuance; the applicant shall submit an irrigation plan for all landscape areas. (P)
- 25) LANDSCAPE. All planter areas (including containerized planters) shall be serviced by a sprinkler or drip system. (P)

- 26) LANDSCAPE. All required landscaping, as approved on the final landscape plan, shall be replaced and continuously maintained as necessary to provide a permanent, attractive and effective appearance. (P)
- 27) LANDSCAPE. Prior certificate of occupancy permit issuance, all required landscaping shall be planted and in place. (P)
- 28) LANDSCAPE. All landscape planters adjacent to vehicle parking areas or travel lanes shall be contained by a full depth (6" above AC to bottom of structural section of adjacent paving) concrete curb. Where landscape planters abut a public street, a 24-inch deep water barrier shall be installed behind the curb. (P)
- 29) STREETSCAPE PLAN. Prior to building permit issuance, the applicant submit streetscape plans reflecting the following:
- a. Sidewalk and street trees along Montague Expressway frontage. In addition, due to future widening of Montague, a temporary sidewalk will be required in current location and street trees shall be planted in future sidewalk location so as not to require their removal upon the widening of the expressway;
 - b. All sidewalks along South Main Street shall be 10-foot wide;
 - c. The streetscape amenities on the South Main Street frontages shall include 24" box street trees in tree wells with grates placed 30-feet on center. Tree species and tree well and grate details to be per City Standards;
 - d. Continue streetscape improvements (10-foot sidewalk and trees) along the entire frontage of Jack-in-the-Box property located in between the two entrances on South Main Street; and
 - e. Construct transitions for sidewalks to both properties located north and south of the proposed project (Storage facility and Shell station) to allow for adequate pedestrian connections. (P)
- 30) LANDSCAPE. Prior to building permit issuance, the applicant shall submit a revised landscape plan that includes the following:
- a. The applicant submit an accurate landscape plan;
 - b. All trees shall be a minimum of 24-inch box;
 - c. Submit an irrigation plan for all landscape areas;
 - d. To address fire access concerns along the rear of the senior buildings reduce the raised landscape planters from 6 to 4 feet in width;
 - e. To address fire access concerns to the upper residential story windows provide paved areas at intermittent locations in the perimeter landscaping abutting the property line at the rear of both senior buildings to allow for ground ladder setup; and

- f. For the 2-foot wide landscape area that occurs along the rear of the senior buildings propose tree and shrub species that will be successful in such a narrow space with limited light. (P)

31) AFFORDABILITY. Prior to the issuance of any permit, the applicant shall provide documentation to the approval of the City Attorney that the following 120 affordable senior housing units will be available at a housing cost affordable to very low and low-income households (P):

Income Level	No. of Units	Unit type
Very Low	35	25 one-bedroom units 10 two-bedroom units
Low	85	79 one-bedroom units 6 two-bedroom units
	120	

25) AFFORDABILITY. Prior to issuance of building permits, the following conditions shall be met:

- a. Income eligibility for the required number of affordable units shall be determined pursuant to the California Health and Safety Code Sections 50079.5, 50093 and 50105, which provide that the very low limits established by the U.S. Department of Housing and Urban Development (HUD) are the state limits for that income category.
- b. The applicant and the City of Milpitas Redevelopment Agency shall enter into Restriction Agreements that outline the provisions for maintaining the long-term affordability of the required senior housing units. The Restriction Agreements shall be approved to form by the Milpitas City Attorney's Office, executed by the City Manager and recorded with the County of Santa Clara.
- c. The Restriction Agreements shall require that the long-term affordability of the senior housing units shall remain in effect for fifty-five (55) years. Any change to this requirement is subject to review and approval by the Milpitas City Council.
- d. The applicant shall work with the Housing Division staff in establishing and determining the waiting list of eligible senior residents that are qualified for the project.
- e. The established affordable rental prices for the senior housing units shall be pursuant to income eligibility provided by the California Health and Safety Code Sections 50079.5, 50093 and 50105 which provide the "very low" limits established by the U.S. Department of Housing and Urban Development (HUD) are the state limits for those income categories. The final affordable rental prices established for the senior units shall not exceed the maximum allowable prices for "very low" households as defined in the above code sections. Said rents shall be approved for consistency with the definitions by the Housing Division staff. (P)

- 32) STORMWATER. Implement standard best management practices (BMPs) for the control of erosion during the temporary stockpiling of excavated soils with fiber rolls and installing sand or gravel bags to minimize runoff impacts to halt runoff from entering the storm drainage system. (P)
- 33) STORMWATER. During all construction activities on-site, the project applicant/developer shall adhere to the following Best Management Practices as suggested by BAAQMD:
- a. Watering all active construction areas twice daily and more often during windy periods. Active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives;
 - b. Cover all trucks hauling soil, sand and other loose materials or require all trucks to maintain at least a 2 feet freeboard level within their truck beds;
 - c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
 - d. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
 - e. Sweep streets daily with water sweeper if visible soil material is carried onto adjacent public streets;
 - f. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for 10 days or more);
 - g. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
 - h. Limit traffic speeds on unpaved areas to 15 mph;
 - i. Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
 - j. Plant vegetation in disturbed areas as quickly as possible; and
 - k. Suspend excavation and grading (all earthmoving or other dust-producing activities) or equipment during periods of high winds when watering cannot eliminate visible dust plumes. (P)
- 34) STORMWATER. Prior to any permit issuance, the applicant shall submit a revised storm water control plan and report for the entire site which includes the following:
- a. Identify the soil type and confirm the soil characteristics;
 - b. Indicate all possible pollutants source areas on the plan and identify all sources of runoff pollutants and source control BMP's, (current report is incomplete); and
 - c. A license professional engineer's certification that the measures specified in the report meet the requirements of the RWQCB order. (P, E)

- 35) TRASH MAINTENANCE. The trash bins and trash/recycling enclosure areas shall be kept clean by double-bagging garbage and by frequent sweeping and disposal of any spilled solid waste. (P)
- 36) TREE REMOVAL. Prior to any protected tree (36-inch circumference or larger) removal, the applicant shall obtain a tree removal permit from the Trees and Landscape section of Public Works Department. (P)
- 37) UTILITIES. The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval. (E)
- 38) PUBLIC IMPROVEMENTS. Prior to building permit issuance, the developer shall obtain design approval and bond for all necessary public improvements along S. Main Street and temporary improvements along Montague Expressway, including but not limited to curb and gutter, pavement, sidewalk, signage and striping, bus stops, street lights relocation, landscaping improvements, tree grates, fire hydrants, storm drain, sewer and water services and re-striped median and signal modifications on South Main Street to provide for safe left turn access in and out of it's most southerly driveway on South Street. Site access from Montague Expressway shall be limited to right turn-in access only. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The developer shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. (E)
- 39) PUBLIC IMPROVEMENTS. Access rights and improvements along Montague Expressway are under the jurisdiction of Santa Clara County Roads and Airports Department. Prior to building permit issuance the developer shall:
- a) Submit improvement plans for all the works, including the landscaping, along Montague Expressway and have the improvements reviewed and approved by the City of Milpitas and Santa Clara County Roads and Airports Department.
 - b) Obtain any necessary permits from Santa Clara County Roads and Airports Department prior to start of any work along Montague Expressway.
 - c) Enter into a landscape maintenance agreement with the County of Santa Clara to maintain the proposed temporary landscaping improvement along Montague Expressway. (E)
- 40) PUBLIC IMPROVEMENTS. Prior to occupancy permit issuance for the last building, developer shall construct all required public improvements, and submit record drawings and

necessary certificates to the Engineering Division. The developer is required to coordinate its construction activities along S. Main Street with the Jack In The Box restaurant. (E)

- 41) UTILITIES. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to, sewer, water and storm connection fees, sewer treatment plant fee and plan check and inspection deposit. These fees are collected as part of the secured public improvement agreement. (E)
- 42) UTILITIES. Prior to building occupancy permit issuance, with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more which do not have to be undergrounded, the developer shall underground all existing wires on the utility poles number 1, 2, 3, 4 and 5, to 6, with utility poles number 1, 2, 3, 4 and 5 be removed, as shown on the Engineering Services Exhibit "S" dated, 8/16/2004. Also all proposed utilities within the subdivision must be undergrounded. (E)
- 43) PARCEL MAP. Prior to any building permit issuance, the developer shall process and record a parcel map or a lot line adjustment to reflect the new property lines. (E)
- 44) PARCEL MAP. Based on the information submitted and the City records, the *northerly* parcel does not appear to be a legal parcel of record. Prior to building permit issuance, the developer shall submit a title search to establish the legality of this parcel, obtain a Certificate of Compliance or file a parcel map. (E)
- 45) ROADWAY VACATION. Prior to any building permit issuance, the developer shall process an application through the City to vacate that portion of the S. Main Street right-of-way for roadway purposes and retain the area as Public Service Utility Easement, as shown on the Engineering Services Exhibit "S", dated 8/16/2004. (E)
- 46) UTILITIES AGREEMENT. Prior to any building permit issuance, the developer shall record a private reciprocal easement and maintenance agreement between the proposed parcels. The reciprocal agreement shall provide for the use of lands and maintenance of all private utility facilities including but not limited to, drainage, sewer, water, landscaping, walls and other common area facilities. (E)
- 47) DEDICATIONS. Prior to building permit issuance, the developer shall dedicate necessary Public Service Utility and Sidewalk easements to the City, as shown on the Engineering Services Exhibit "S" (dated 8/16/2004). (E)
- 48) DEDICATIONS. Prior to any building permit issuance the developer shall dedicate adequate right of way to Santa Clara County Roads and Airports Department, 79 feet from the centerline of Montague Expressway, and/or provide document to the City's Engineering Division that the required right of way has been previously dedicated in fee. (E)
- 49) UTILITIES. Prior to issuance of any building permits, developer shall obtain approval from the City Engineer of the water, sewer and storm drain studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the

impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer. (E)

50) STORMWATER. The developer shall incorporate the requirements of the draft Stormwater Control Plan into the design of the site improvements and comply with the following:

- a) At the time of building permit plan check, the developer shall submit a “final” Stormwater Control Plan and Report. Site grading, drainage, landscaping and building plans shall be consistent with the approved Stormwater Control Plan.
- b) Prior to building permit issuance, the developer shall submit an Operation and Maintenance (O&M) Report for the long-term operation and maintenance of C-3 treatment facilities.
- c) Prior to Final occupancy, the developer shall execute and record an O&M agreement with the City for the operation, maintenance and annual inspection of the C-3 treatment facilities. (E)

51) UTILITIES. Multistory buildings as proposed require water supply pressures above that which the City can normally supply. Additional evaluations by the applicant are required to assure proper water supply (potable or fire services). Prior to issuance of any building permit, developer shall submit an engineering report detailing how adequate water supply pressures will be maintained. Contact the Utility Engineer at 586-3345 for further information. (E)

52) GRADING PLAN. At the time of building permit plan check submittal the developer shall submit a grading plan, storm water control plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. The studies shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study prior to any Building permit issuance. (E)

53) STORMWATER. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Construction activities which disturb 1 acre or greater are viewed as a source of pollution, and the RWQCB requires a Notice of Intent (NOI) be filed, along with obtaining an NPDES Construction Permit prior to the start of construction. A Storm Water Pollution Prevention Plan (SWPPP) and a site-monitoring plan must also be developed by the applicant, and approved by the City prior to permit issuance for site clearance or grading. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329. (E)

54) UTILITIES. The developer shall submit the following items with the building permit application and pay the related fees prior to final inspection (occupancy) by the Building Division:

- a) Water Service Agreement(s) for water meter(s) and detector check(s).
- b) Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.

Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain the form(s). (E)

55) UTILITIES. In accordance with Chapter 5, Title VIII (Ord. No. 238) of Milpitas Municipal Code, for new and/or rehabilitated landscaping 2,500 square feet or larger the developer shall:

- a) Provide separate water meters for domestic water service & irrigation service. Developer is also encouraged to provide separate domestic meters for each tenant.
- b) Comply with all requirements of the City of Milpitas Water Efficient Ordinance (Ord. No. 238). Two sets of landscape documentation package shall be submitted by the developer or the landscape architect to the Building Division with the building permit plan check package. Approval from the Land Development Section of the Engineering Division is required prior to building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection.

Contact the Land Development Section of the Engineering Division at (408) 586-3329 for information on the submittal requirements and approval process. (E)

56) SITE DISTANCE. The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation, as further shown on Engineering Services Exhibit "S" (dated 8/16/2004). (E)

57) UTILITIES. All existing on-site public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City's easements. The proposed buildings along Montague Expressway shall be moved to clear the proposed Public Service, utility and sidewalk easement. (E)

58) LANDSCAPE/LIGHTING MAINTENANCE DISTRICT. Prior to building permit occupancy/final inspection, the developer shall form or participate in a Landscaping and Lighting Maintenance Assessment District (LMD) pursuant to the Landscaping and Lighting Act of 1972 for the benefit of the subject property. The developer shall also vote to participate in any assessment that provides a benefit to the property, which may or may not serve as a substitute for the formation of the LMD or at City's option execute an encroachment permit agreement to maintain the landscaping until such a time a LMD or similar district is formed (E)

59) TRASH ENCLOSURE. Prior to occupancy permit issuance, the applicant shall construct a trash enclosure, designed per the Development Guidelines for Solid Waste Services. The

design of the proposed trash chutes must comply with Engineering Division guidelines, contact Leslie Stobbe at (408) 586-3352 for further information. (E)

60) TRASH ENCLOSURE. Property owner/manager shall be responsible for the trash collection and recycling services account for all the tenants of this property. Prior to occupancy permit issuance, the property owner/manager shall submit evidence to the City that the following minimum refuse and recycling services have been subscribed with BFI for commercial services:

- a) An adequate level of service for trash collection.
- b) An adequate level of recycling collection. After the applicant has started its business, BFI commercial representative shall determine the adequacy of the solid waste level of services.

If services found to be inadequate, the property owner/manager shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234, x-264. (E)

61) IMPROVEMENT APPROVALS. Prior to any building permit issuance, developer shall submit plans to all affected agencies and private parties, including but not limited to Santa Clara County Roads and Airports Department and PG & E, and obtain their approval to construct for the proposed improvements upon their easements or properties. Copies of these approvals, permits, conditions and requirements must be submitted to the City of Milpitas Engineering Division. (E)

62) ENCROACHMENT PERMIT. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from City of Milpitas Engineering Division. (E)

Planning Division = (P)

Engineering division = (E)

Transportation Division = (T)